

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

FILED

91 JUL -1 PM 12:00

CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
TOLEDO

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUBRIZOL CORPORATION,  
ALLIED-SIGNAL CORPORATION,  
ROCKWELL INTERNATIONAL  
CORPORATION, and E.I. DU PONT  
DE NEMOURS & COMPANY

Defendants.

3:91CV7381  
CIVIL ACTION NO.

JUDGE NICHOLAS J. WALINSKI

CODE - 4725

NOTICE OF LODGING OF PROPOSED CONSENT DECREE

Plaintiff United States of America is hereby lodging with the Court a proposed Consent Decree, which, if entered by the Court, would resolve the United States' claims in this action against the defendants. The proposed Consent Decree has been executed on behalf of the United States and defendants.

Plaintiff requests that the Court not enter the proposed Consent Decree at this time. Rather, notice of the lodging of the proposed Consent Decree will be published in the Federal Register, following which the United States Department of Justice will receive public comments on the proposed Consent Decree for a 30 day period. At the conclusion of the comment period, the United States will file with the Court any comments

received, as well as responses to the comments, and at that time, if appropriate, request the Court to enter the Decree.

Respectfully submitted,


RICHARD B. STEWART  
Assistant Attorney General  
Environment & Natural Resources Division  
United States Department of Justice



ALAN S. TENENBAUM  
Environmental Enforcement Section  
Environment & Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
(202) 514-5409

JOYCE GEORGE  
United States Attorney  
Northern District of Ohio

By:



Holly Taft Sydlow Reg. No. 0001122  
Assistant United States Attorney  
1716 Spielbusch Avenue  
Room 305 U. S. Courthouse  
Toledo OH 43624  
(419) 259-6376

OF COUNSEL:

RICHARD L. NAGLE  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
230 South Dearborn Street  
Chicago, Illinois 60604

Certificate of Service

A copy of the Complaint, Consent Decree and the Notice of Lodging of Proposed Consent Decree was served on July 1, 1991 by mail per agreement on:

Pamela J. Cissik, Esq.  
Law Department  
Allied-Signal, Inc.  
P.O. Box 2245  
101 Columbia Road  
Morristown, New Jersey 07962  
Attorney for Allied-Signal, Inc.


Stephen Q. Giblin, Esq.  
Jones, Day, Reavis, and Pogue  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Attorney for Lubrizol Corp.

James A. Vroman, Esq.  
Winston and Strawn  
35 West Wacker Dr.  
Chicago, Illinois 60601-9703  
Attorney for Rockwell International Corp.

Ross E. Austin, Esq.  
E.I. Dupont De Nemours Co.  
Legal Department  
Wilmington, Delaware 19898  
Attorney for E.I. DePont De Nemours Co.

Respectfully submitted,

JOYCE J. GEORGE  
UNITED STATES ATTORNEY

  
Holly Taft Sydlow  
Assistant United States Attorney  
Reg. No. 0001122  
1716 Spielbusch Avenue  
305 U. S. Courthouse  
Toledo, Ohio 43624  
(419) 259-6376

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91 SEP 16 PM 2:05

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
FILED

UNITED STATES OF AMERICA

Plaintiff,

v.

THE LUBRIZOL CORPORATION,  
THE ALLIED-SIGNAL CORPORATION,  
THE ROCKWELL INTERNATIONAL  
CORPORATION, E.I. DUPONT DE  
NEMOURS & COMPANY,

Defendants.

3:91CV7381  
Civil Action No.

JUDGE NICHOLAS J. BALANDAI

CODE - 4725

CONSENT DECREE

WHEREAS Plaintiff, the United States of America, on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed the Complaint in the above-captioned action alleging that the Defendants are jointly and severally liable to the United States, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. Section 9607, for costs incurred by Plaintiff in responding to the release or threat of release of hazardous substances at the Greiner's Lagoons site near Fremont, Ohio.

This Consent Decree ("Decree") is made and entered into by and between Plaintiff, the United States of America, and those

persons and entities defined in this Decree as the "Settling Defendants," for the claims of the United States for reimbursement of response costs that it has incurred as alleged in the Complaint.

Except as otherwise provided in the Federal Rules of Evidence, the participation by the Settling Defendants in this Decree or any act taken pursuant thereto shall not be considered an admission of liability for any purpose, and the fact of such participation or act shall not be admissible in any judicial or administrative action or proceeding. This Decree may be admissible in any action to enforce the terms hereof.

NOW THEREFORE, before the taking of any testimony, before adjudication of the merits of this case or any underlying fact, and with the consent of the parties to this Decree, it is ORDERED, ADJUDGED, and DECREED as follows:

#### I. JURISDICTION

A. This Court has jurisdiction over the subject matter of these actions and over the parties to this Decree, pursuant to 28 U.S.C. Sections 1331 and 1345 and Sections 107 and 113(b), of CERCLA, 42 U.S.C. Sections 9607 and 9613(b). The Complaint states a claim upon which the Court may grant relief pursuant to CERCLA. The parties agree to be bound by the terms of this Decree and not to contest its validity in any subsequent

proceeding. Venue is proper in this Court pursuant to 42 U.S.C. Section 9613(b) and under 28 U.S.C. Sections 1391(b) and (c).

## II. DEFINITIONS

The following definitions shall apply in this Decree:

A. "Parties" means both the Plaintiff and the Settling Defendants to this Decree, and their successors and assigns.

B. "Settling Defendants" means The Lubrizol Corporation, The Allied-Signal Corporation (Successor in interest to Allied Chemical Corporation), The Rockwell International Corporation, and E.I. DuPont de Nemours & Company, whose authorized representatives have signed this Consent Decree.

C. "Greiner's Lagoons", "Site," and "Facility" mean the property at or near the dead-end of County Road 181, near the town of Fremont in Sandusky County, Ohio, where hazardous substances including waste oils, paints and chemicals were treated or disposed. The Site is on a small parcel of land, at least 200' x 1500' in size. The Site consisted of a set of four lagoons where the hazardous substances were deposited. The lagoons were dewatered and the remaining sludge was stabilized on Site. The Site is surrounded by crop fields and woods.

D. " Greiner's Lagoons Response Costs" means all costs, including interest thereon, that have been incurred by the United

States with respect to the Greiner's Lagoons facility through July 1, 1990.

### III. PARTIES BOUND

A. This Decree shall apply to and be binding upon the Parties and their successors and assigns. Each undersigned representative of each Settling Defendant certifies that he or she is fully authorized to enter into the terms and conditions of this Decree, to execute this Decree, and to bind that party to this Decree.

### IV. PAYMENTS

A. Within thirty (30) calendar days of the entry of this Decree, the Settling Defendants, through their designated representative, shall pay the sum of \$671,808.48 plus interest at the rate specified for interest under CERCLA, 42 U.S.C. Section 9607(a). Interest shall accrue beginning on the date this decree is lodged with the court.

B. If any Settling Defendant fails to make payments required by this Decree, such Settling Defendant shall be liable for all litigation and other enforcement costs incurred by the United States to enforce this Decree or otherwise obtain such payments.

C. Payment made pursuant to paragraph IV.A. above of this Decree shall be made by certified or cashier's check payable to the "United States Environmental Protection Agency, Hazardous

Substance Superfund" and shall be sent to U.S. Environmental Protection Agency, Attn: Superfund Accounting, P.O. Box 70753, Chicago, Illinois, 60673, noting "Greiner's Lagoons, # 50" on the face of the check. Settling Defendants, through their designated representative, shall send a copy of such check and its transmittal letter to the Waste Management Division, CERCLA Enforcement Support Unit, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois, 60604, and to the Chief, Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044. Payment shall be deemed accomplished upon receipt by EPA of the check.

V. COVENANT NOT TO SUE SETTLING DEFENDANTS

A. In consideration of payments which will be made by the Settling Defendants under the terms of the Decree, and except as otherwise specifically provided in Paragraphs B through E below or elsewhere in this Decree, the United States covenants not to commence a civil judicial or administrative action against any Settling Defendant or its officers, directors, employees, or agents for "Covered Matters." "Covered Matters" for purposes of Section V. shall refer to any and all claims available to Plaintiff under Section 107 of CERCLA, 42 U.S.C. Sections 9607, with respect to Greiner's Lagoons Response Costs except as excluded under Section V.B. below. This covenant not to sue will



become effective only after the United States has timely received all payments by Settling Defendants required by this Decree.

B. "Covered Matters" do not include:

1. Liability arising from hazardous substances removed from the Facility; or
2. Claims of the United States for natural resources damages; or
3. Liability for response costs incurred after July 1, 1990; or
4. Liability for performance of removal or remedial design or action for the Facility after July 1, 1990.

C. Notwithstanding any other provision in this Decree, (1) the United States reserves the right to institute proceedings in this action or in a new action or to issue an Order seeking to compel any Settling Defendant to perform any future response work at the Facility, and (2) the United States reserves the right to institute proceedings in this action or in a new action seeking to reimburse the United States for natural resource damages and for its future response costs under CERCLA, relating to the Facility.

D. Notwithstanding any other provision in this Decree, the covenant not to sue in this section shall not relieve any Settling Defendant of its obligation to meet and maintain compliance with the requirements set forth in this Decree.

E. Nothing in this Decree limits the response authority of the United States under Sections 104 and 106 of CERCLA, 42 U.S.C. Sections 9604 and 9606, or any other applicable law.

F. Having resolved its liability to the United States with respect to matters addressed by, and to the extent provided in this Decree, Settling Defendants shall be entitled, upon entry of this Decree, and so long as Settling Defendants remain in compliance with the terms and requirements of the Decree, to such protection from contribution actions or claims as provided in CERCLA Section 113(f)(2), 42 U.S.C. 9613(f)(2). The Settling Defendants agree that the United States shall not be under any obligation to assist Settling Defendants against any such suits or claims.

#### VI. RESERVATION OF RIGHTS

A. The covenants not to sue in this Decree are not and shall not be construed to be releases of any kind.

B. Nothing in this Decree is intended as a covenant not to sue or a release from liability regarding any claim or cause of action against any person or entity not a signatory to this Decree. The United States expressly reserves all claims, demands and causes of action, either judicial or administrative, past or future, in law or equity, against any person or entity not a party to this Decree for any matter in connection with the Greiner's Lagoons Site.

C. Nothing in this Consent Decree shall be construed to make any other person or entity not executing this Consent Decree a third party beneficiary of this Decree, nor shall any person other than a party executing this Decree have any authority to enforce its terms. The Parties to this Decree reserve all common law and statutory rights against persons or entities not a party to this Decree, including but not limited to rights to contribution or indemnification. The Defendants may seek contribution from or assert claims, demands, defenses or causes of action against, persons not a party hereto, to the extent permitted by law.

#### VII. WAIVER OF CLAIMS

A. In consideration of the entry of this Decree, Settling Defendants shall not make any claim or demand against the United States, its contractors or employees, or the Hazardous Substances Superfund ("Superfund") established by Section 221 of CERCLA, 42 U.S.C. Section 9631, including any claim pursuant to Sections 107, 111 and 112 of CERCLA, 42 U.S.C. Sections 9607, 9611 and 9612, for Greiner's Lagoons Response Costs or for attorneys fees related to this action. Nothing in this Decree shall be construed as EPA's preauthorization of a claim against the Superfund.

**VIII. RETENTION OF JURISDICTION**

A. After entry of this Decree, the Court shall retain jurisdiction of this matter for the purpose of interpreting, implementing, and enforcing the terms of this Decree. Any party to this Decree may initiate such a proceeding by filing a motion under the caption of this action.

**IX. NOTICE AND PUBLIC COMMENT**

A. The Parties agree and acknowledge that final approval by the United States and entry of this Decree is subject to the requirement for notice and opportunity for public comment. The United States may withdraw consent to this Decree if comments received disclose facts or considerations which indicate the Decree is inappropriate, improper, or inadequate.

**X. EXECUTION**

A. This Consent Decree may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ENTERED this 16 day of SEP, 1991

  
U.S. District Judge

The parties whose signatures appear below hereby consent to the terms of this Consent Decree. The consent of the United States is subject to the public notice and comment requirements.

## UNITED STATES OF AMERICA

By: 

Assistant Attorney  
General  
Land & Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530


Date: 6/17/91By: 

Valdas V. Adamkus

 Regional Administrator  
U.S. EPA, Region V  
Chicago, Illinois 60604

Signatures of each Settling Defendant may be here or on a separate page.

E. I. du Pont de Nemours and Company  
NAME OF SETTling DEFENDANT (Type)  
1007 Market Street, Wilmington, DE 19898  
Address

By: P. B. Allen  
Name of Officer (Type)  
  
(Signature of officer)  
Vice-president - Manufacturing  
Title

If different from above, the following is the name and address of this Settling Defendant's agent for service of process:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

Prior Notice to all parties shall be provided by Settling Defendant of any change in the identity or address of the Settling Defendant or its agent for service of process.

Signatures of each Settling Defendant may be here or on a separate page.

For Allied-Signal Inc.  
(successor to Allied Chemical Corporation)

NAME OF SETTLING DEFENDANT (Type)  
101 Columbia Road, Morristown, NJ 07962

Address

By: James A. Schutt

Name of Officer (Type)



(Signature of officer)  
Director, Site Remediation

Title

If different from above, the following is the name and address of this Settling Defendant's agent for service of process:

Name

Address

Prior Notice to all parties shall be provided by Settling Defendant of any change in the identity or address of the Settling Defendant or its agent for service of process.

Signatures of each Settling Defendant may be here or on a separate page.

ROCKWELL INTERNATIONAL CORPORATION  
NAME OF SETTLING DEFENDANT (Type)  
13267 State Route 68 South  
Address           Kenton, Ohio 43326

By: Prakash Mulchandani  
Name of Officer (Type)  
Prakash Mulchandani  
(Signature of Officer)  
General Manager  
Title

If different from above, the following is the name and address of this Settling Defendant's agent for service of process:

Eleni Kouimelis  
Name  
WINSTON & STRAWN  
Address  
35 West Wacker Drive  
Chicago, Illinois 60601  
(312) 558-5600

Prior Notice to all parties shall be provided by Settling Defendant of any change in the identity or address of the Settling Defendant or its agent for service of process.



Signatures of each Settling Defendant may be here or on a separate page.

THE LUBRIZOL CORPORATION

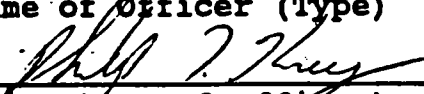
NAME OF SETTLING DEFENDANT (Type)

29400 Lakeland Blvd., Wickliffe, OH 44092

Address

By: Philip L. Krug

Name of officer (Type)



(Signature of officer)

Executive Vice President

Title

If different from above, the following is the name and address of this Settling Defendant's agent for service of process:

CT CORPORATION SYSTEM

Name

815 Superior Avenue, N.E.

Address

Cleveland, OH 44114

Prior Notice to all parties shall be provided by Settling Defendant of any change in the identity or address of the Settling Defendant or its agent for service of process.